

HB 2563: Postsecondary Institutions; Free Expression Policies

Free Expression Policies

- Directs ABOR and each community college to adopt free expression policy that:
 1. requires the institution to strive to ensure the fullest degree of intellectual freedom and free expression;
 2. establishes that it is not the role of a higher education institution to shield individuals from speech protected by the First Amendment, including that which is unwelcome or offensive;
 3. establishes the freedom of students and faculty to discuss any problem, and to lawfully assemble and engage in spontaneous expressive activities as long as they do not substantially disrupt the function of the institution;
 4. establishes a range of disciplinary actions for a student who engages in conduct that materially and substantially infringes on someone else's right to engage in or listen to expressive activity;
 5. establishes that a student is entitled to a disciplinary hearing involving expressive conduct, procedures of the hearing must include:
 - a. the right to receive advanced written notice of the allegations
 - b. the right to review the evidence in support of the allegations
 - c. the right to confront witnesses who testify against that student
 - d. the right to present a defense
 - e. the right to call witnesses;
 - f. a decision by an impartial person or panel
 - g. the right to an appeal
 - h. the right to active assistance of counsel under certain circumstances
 6. declares that it is the sense of the Legislature that suspension or expulsion may be appropriate if a student has repeatedly infringed on the rights of other persons to engage in or listen to expressive activity
- Allows ABOR and each community college to adopt rules that restrict speech that has been declared prohibited by law as being:
 1. a violation of state or federal law
 2. an expression that a court has deemed unprotected defamation
 3. harassment
 4. a true threat
 5. an unjustifiable invasion of privacy or confidentiality that does not involve a matter of public concern
 6. an action that unlawfully disrupts the function of the university or community college.
- Allows, the restriction on a student's right to speak in a public forum and requires restrictions on the time, place and manner of student speech to:
 1. be necessary to achieve a compelling governmental interest, rather than be narrowly tailored to serve a significant governmental interest
 2. be the least restrictive means to further that interest

- Allows a person who is lawfully present on a university or community college campus to protest or demonstrate on that campus
- Prohibits individual conduct that materially or substantially infringes on the rights of other persons to engage in or listen to expressive activity.
- Declares that the public areas of university and community college campuses are public forums and are open on the same terms to any speaker.
- Establishes that university and community college campuses are open to any speaker invited by a student, student group or faculty member.
- Specifies faculty members are not prohibited from maintaining classroom order.
- Requires universities and community colleges to make reasonable efforts and make available reasonable resources to address the safety of an invited speaker and others in attendance.
- Prohibits a university or community college from charging security fees based on the content of the speech of the speaker or the person who invited them.
- Allows a university or community college to restrict the use of its nonpublic facilities to invited individuals.
- Allows university or community college students, faculty or staff members to take a position on the public policy controversies of the day,
- Encourages a university or community college to remain neutral on public policy controversies of the day unless the issues are essential to the day-to-day functioning of the institution.
- Prohibits universities and community colleges from taking action on public policy controversies in a way that requires students or faculty to publicly express or endorse a particular view.
- Allows a person whose expressive rights were violated to bring court action against any violation by a university, community college, faculty member or administrator; directs the court to award the greater of \$1,000 or actual damages.
- Requires each university and community college to include in its freshman orientation program information describing the policies and rules regarding free expression.

Committees on Free Expression

- Requires ABOR to establish a Committee on Free Expression (Committee) consisting of at least 15 members. (Terminates the Committee on July 1, 2026)
- Requires the Committee to submit an annual report, by September 1, to the Governor, Senate and House. The report must include:
 1. barriers or disruptions to free expression
 2. the administrative handling and discipline relating to barriers or disruptions to free expression
 3. substantial difficulties, controversies or successes in maintaining a posture of administrative and institutional neutrality
 4. any assessments, criticisms, commendations or recommendations from the Committee
 5. an accounting of how student activity fees were allocated in the prior year.

Member of the Committee on Free Expression

Committee Chair: John Arnold, Executive Director, Arizona Board of Regents

ASU REPRESENTATIVES:

- Stefani Lindquist, Deputy Provost and Vice President for Academic Affairs
- Derrick Anderson, School of Public Policy and Design and Advisor to the President
- Joanne Vogel, Deputy Vice President and Dean of Students at the Tempe campus
- Michael Bergstrom, Student
- José Cárdenas, Senior Vice President and General Counsel

NAU REPRESENTATIVES:

- Kimberley Ott, Assistant to the President for Executive Communications & Media Relations
- Eric Yordy, Interim Executive Director, Professor, Business Law, W.A. Franke College of Business
- Erin Grisham, Associate Vice President for Student Affairs
- Dylan Graham, NAU Student Body President
- Michelle Parker, General Counsel

UA REPRESENTATIVES:

- Natalynn Masters, ASUA Student Body President
- Toni Massaro, College of Law
- Kathy Adams Riester, Dean of Students Office
- David Schmidt, Social & Behavioral Sciences, Political Economy and Moral Science
- Bob Sommerfeld, UA Police Department